



## **MINUTES**

### **FORT MYERS BEACH TOWN COUNCIL TOWN HALL – COUNCIL CHAMBERS**

2523 ESTERO BOULEVARD  
FORT MYERS BEACH, FLORIDA 33931

**Monday April 18, 2011**

**6:30 PM**

**I. CALL TO ORDER**

Mayor Kiker called the meeting to order at 6:30 p.m. Present with Mayor Kiker Vice Mayor Raymond, Council members Kosinski, List and Mandel, along with Town Manager Stewart, Town Attorney Miller and Town Clerk Michelle Mayher.

**II. INVOCATION**

Reverend Jean Davis

**III. YOUTH COUNCIL**

**IV. PLEDGE OF ALLEGIANCE**

All stood to recite the Pledge of Allegiance

**V. APPROVAL OF FINAL AGENDA**

- Water Conservation Month Proclamation moved to Consent Agenda

Vince Cummings stated he had attended a luncheon for National Committee for Employers Support of the National Guard and Reserve, representing the town in his capacity of Asst. to the Town Manager. Mr. Cummings indicated the town had been selected for the Above and Beyond Award which was given in limited number under the name of the Secretary of Defense by State Committees to recognize employers who supply support for employees who serve in the National Guard and Reserve.

**VII. PUBLIC COMMENT**

**Public Comment Opened**

- **Hank Zuba** stated he felt the demolition of Seafarer's should proceed however,

should be proceeded by an environmental study as well as the proper permits. Mr. Zuba felt the property should be mixed use.

- **Ed Scott** voiced his disapproval of a parking lot for the Seafarer's property and asked for consideration of a curved wall similar to the one installed at Lakes Park with a retention pond behind it to deal with some of the town's water issues.

- **Sam Lurie** thanked Council for looking into the library expansion, continuing his statement by citing his figures on the library budget and his feelings that the public had been misled by the library regarding the expansion.

**Public Comment Closed**

**VIII. LOCAL ACHIEVEMENTS AND RECOGNITIONS**

None

**IX. ADVISORY COMMITTEES ITEMS AND REPORTS**

None

**X. APPROVAL OF MINUTES**

- A. February 22, 2011 Management and Planning Session
- B. March 21, 2011 Regular Town Council Meeting

**MOTION:** Councilmember Mandel moved to approve with a second by Councilmember List

**VOTE:** Motion passed 5 to 0

**XI. CONSENT AGENDA**

- A. Approval of Resolution 11-02, FDOT for Bridge Maintenance
- B. Approval of Community Development Block Grant Joint Resolution (Lee County)
- C. Allocation of Funding for Architectural Services for Mound House Restoration, Renker Eich Parks
- D. Proclamation for Water Conservation Month – South Florida Water Management District

**MOTION:** Councilmember Mandel moved for approval with a second by Councilmember List.

**VOTE:** Motion passed 5 to 0

**XII. PUBLIC HEARINGS**

- A. Continuation of Second Public Hearing, 11-01, Ordinance Amending Sign Ordinance

Town Clerk Michelle Mayher read the title of Ordinance no. 11-01 **AN ORDINANCE AMENDING CHAPTER 30 – SIGNS IN THE TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE;**

**AMENDING DEFINITIONS; APPLICABILITY; PROHIBITED SIGNS; EXEMPT SIGNS; POWERS AND DUTIES OF TOWN MANAGER; PERMITS AND INSPECTIONS; NON-CONFORMING SIGNS; DESIGNATION OF HISTORICALLY SIGNIFICANT SIGNS; COMPUTATION OF SIGN AREA; LOCATION; TEMPORARY SIGNS; MAXIMUM SIGN AREA; AND STANDARDS FOR CERTAIN TYPES OF SIGNS; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.**

Attorney Miller indicated the ordinance was the same as the two prior hearings other than slight changes reflecting election signs were to remain the same size even if on commercial property and the issue of temporary directional signs such as open house or yard sale signs.

No one present to speak for LPA.

**Public Comment Opened**

▪ **Cashauna Haney with Roetzel and Andress** on behalf of Lighthouse Island Resort reiterated their concerns regarding sign size, noting the business had frontage on 4 right of ways, proposing an amendment to the ordinance, also noting computation of sign area, asking for clarification on the language as to whether the frame work for the sign was included in the computation of size and lastly commenting on the timing of the ordinance due to the down economy.

▪ **Terry Lenick** attorney for Beach Shell Inn discussed amortization stating the difference between someone coming in for permitting for new construction versus telling someone they have to do something at the end of a specific time, changing something that was already there. Mr. Lenick hoped to be able to work toward a deviation for his client.

▪ **Joe Manahan** Topps Supermarket indicated several years ago when businesses were suppose to remove their signs, they did, even though it had been one of the longest standing signs on the beach. Mr. Manahan stated they would like to put a sign back up but had been turned down when they applied for a permit.

**Public Comment Closed**

Attorney Miller addressed the issues of the Lighthouse property and the Beach Shell property feeling she had addressed them in the ordinance.

Councilmember List voiced her aversion to telling businesses what constituted an aesthetically pleasing sign stating she knew Council had been working on the ordinance for a long time.

Vice Mayor Raymond indicated that about 50% of businesses had spent the money on new signs so felt it unfair to now say the remainder of businesses did not have to, then continued by asking why Topps was not permitted a

sign by the road.

Community Development Director Fluegel indicated the existing sign on the mansard of the building maxed them out for square footage of signage, however with their double frontage they could benefit for the additional square footage allowance, as well as the threshold of the 3 businesses in the shopping center it raises the square footage which would be something staff could look at, as well as a variance.

Councilmember Kosinski indicated he had never been a fan of the ordinance feeling there would be ramifications from the island, including interpretation, and size, stating he liked the intent but wished there were another way of dealing with the issue.

Mayor Kiker discussed the 'taking' of property regarding the signs, and the future issues of right of way property also noting all those businesses that have already complied and the repercussions if the town did not proceed with the process. Mayor Kiker stated the businesses may find that the change of signs may actually be a good thing for the businesses and reminded all that there were ways to challenge the decision or variances to apply for, regarding their own sign.

Discussion continued regarding multiple frontages, historic signs and the ability to ask for a variance.

**MOTION:** Councilmember Mandel moved to approve Ordinance 11-01 Amending Chapter 30, titled Signs, of the Land Development Code with a second by Vice Mayor Raymond.

**VOTE:** Town Clerk Mayher called for a roll call vote with all Council members voting aye. Motion passed 5 to 0

Hearing concluded at 7:50 p.m.

B. Final Public Hearing, 11-02, Ordinance Amending Flood Plain Regulations

Town Clerk Michelle Mayher read Ordinance No. 11-02 **AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH AMENDING THE FLOODPLAIN REGULATIONS AND REFERENCES TO THE FEDERAL FLOOD INSURANCE STUDY (FIS) AND FLOOD INSURANCE RATE MAPS (FIRM) IN THE LAND DEVELOPMENT CODE (LDC); ADOPTING AMENDMENTS TO ARTICLE IV (FLOODPLAIN REGULATIONS) OF CHAPTER 6 OF THE LDC, TITLED 'MAINTENANCE CODES, BUILDING CODES, AND COASTAL REGULATIONS,' AND WHICH PROVIDES ARTICLE IV FLOODPLAIN REGULATIONS, DIVISION 1 GENERALLY; PROVIDING**

**AUTHORITY; PROVIDING FOR CONFLICTS; SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.**

Tina Ekblad, Planning Coordinator addressed Council indicating this ordinance was strictly a language change to keep the town in compliance with no changes to enforcement.

No one present from LPA

**Public Comment Opened**

**No Public Comment**

**Public Comment Closed**

**MOTION:** Councilmember Jo List made a motion to approve Ordinance 11-02 amending the Floodplain Regulations of the Town of Fort Myers Beach Land Development Code, with the change that Floodplain be inserted throughout prior to the word administrator, with a second by Councilmember Kosinski.

**VOTE:** Town Clerk Michelle Mayher called for a roll call vote with all Councilmembers voting aye. Motion passed 5 to 0

Hearing closed at 7:55 p.m.

**C. Final Public Hearing, 11-03, Limited Amendment, Noise Ordinance – Refuse Collection**

Town Clerk Michelle Mayher read Ordinance No. 11-03 **AN ORDINANCE AMENDING CHAPTER 14, ARTICLE II, IN THE TOWN OF FORT MYERS BEACH CODE OF ORDINANCES, ‘NOISE CONTROL,’ AMENDING SECTION 14-22, ‘EXCEPTIONS,’ SUBSECTION (4), TO LIMIT THE EXCEPTION FOR ORDINARY NOISE CREATED BY THE OPERATION OF REFUSE AND RECYCLABLES COLLECTION FROM NON-RESIDENTIAL LOCATIONS SO THAT SUCH COLLECTION MAY ONLY OCCUR BETWEEN THE HOURS OF 6:30 A.M. AND 6:30 P.M.; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.**

No one present from LPA

**Public Comment Opened**

**No Public Comment**

**Public Comment Closed**

**MOTION:** Vice Mayor Raymond made a motion to approve Ordinance 11-03, Limited Amendment, Noise Ordinance – Refuse Collection with a second by Councilmember List.

**VOTE:** Town Clerk Michelle Mayher called for a roll call vote with all

Councilmembers voting aye. Motion passed 5 to 0

Hearing closed at 7:57 p.m.

### **XIII. ADMINISTRATIVE AGENDA**

#### **A. Acceptance of Town of Fort Myers Beach Annual Audit and Adoption of Resolution 11-04**

**Public Comment Opened**

**No Public Comment**

**Public Comment Closed**

**MOTION:** Councilmember Mandel made a motion based on Council's morning discussions to adopt Resolution 11-02-U accepting the Basic Financial Statements and Audit for Fiscal Year 2009-2010 as presented by the General Manager and further move that the General Manager be authorized to fulfill any administrative functions in filing these documents with the State of Florida as required by Florida Statute with a second by Councilmember Kosinski.

**VOTE:** Motion passed 5 to 0

***Council Recessed at 7:58 p.m.***

***Council Reconvened at 8:15 p.m.***

#### **B. Discussion Regarding Seafarer's**

Town Manager Stewart indicated there had been ongoing discussions with the BOCC regarding the property, stating Mayor Kiker could relay the discussion with the TDC and that staff would provide information regarding the CPD that governs the property and how it could affect the property in the future.

Mayor Kiker indicated the TDC questioned why they were being contacted now since they were not when the property was purchased, continuing by stating it was a 5 to 0 vote of the BOCC to keep the property and not turn it over to the town but move forward with the demolition of the building.

Council continued to discuss the effects to the town and the issues that would present themselves once the building comes down. Mayor Kiker then suggested the town hire an expert to determine what could be done with the property and any issues that could arise on the property.

**Public Comment Opened**

▪ **John Albion Fort Myers Beach Chamber of Commerce** addressed Council stating something needed to be done with the property before next session and for Council to draw parameters now as to what they would like the property to look like.

**Public Comment Closed**

#### **XVI. TOWN ATTORNEY'S ITEMS**

Attorney Miller indicated the town had been contacted by the Sheriff's office to place a moratorium on pain management clinics pending the state's actions in regulations. There was a consensus from Council for Attorney Miller to move forward with the issue.

#### **XVII. TOWN MANAGER'S ITEMS**

Town Manager Stewart stated staff had just received a request from Bonita Springs of a letter of support for them to seek a grant application.

#### **XVIII. COUNCILMEMBERS ITEMS AND REPORTS**

Vice Mayor Raymond commented on the latest MPO meeting.

Councilmember List requested the Council approve the Town Attorney to write a letter that the easement running along the south side of Newton Park was legal for the town to plant trees along the right of way. Council provided consensus.

#### **XIX. AGENDA MANAGEMENT**

Councilmember Mandel felt it was time to take a look at all interlocal agreements. It was decided to have staff start researching all interlocals and presenting the information for a work session.

Councilmember List wanted the parks and recreation rates be placed on agenda management for discussion, also to discuss what business the town was in and the policy behind the rates should.

Vice Mayor Raymond asked about the RFP for remodeling the Mound House.

Mayor Kiker asked to review the fee structure for variances on the sign ordinance.

Councilmember List indicated she would be speaking with Principal Wood from Fort Myers Beach Elementary and asked for a brief discussion in a work session regarding the responsibilities of a liaison to the school.

#### **XX. RECAP OF ACTION ITEMS**

- Prepare Resolution for signature DOT Bridge Maintenance Agreement
- Joint Resolution of the Block Grant
- Move forward with architect going out to bid
- Sign Ordinance news stories and information releases
- Information out regarding the change in the noise ordinance
- Signed documents to State of Florida regarding the audit
- Meeting with BOCC regarding issues addressed during Council Meeting

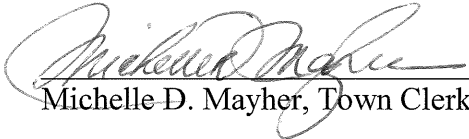
**XXI. ADJOURNMENT**

**MOTION:** Motion to adjourn by Councilmember List with a second by (inaudible).

*Meeting Adjourned at 9:22 p.m.*

Adopted 5-16-11 With/Without changes. Motion by Reynolds/Kasenski

Vote: 5-0

  
Michelle D. Mayher, Town Clerk

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